

THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No. 18852 of 2001

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Dated: 27.02.2006

Between:

R. Bhagawanth Reddy, S/o Narayana Reddy,
Secretary, PACS, Anthampalli, Biknoor Mandal, Nizamabad
District.

..... PETITIONER

AND

The Primary Agricultural Co-operative Society Limited,
Anthampalli, Biknoor Mandal, Nizamabad District, rep. By its
President and others.

.....RESPONDENTS

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Order:

The petitioner, who is working as Secretary of respondent No.1-Society, was suspended vide orders dated 08.12.1999 on certain irregularities committed by him. Against the said orders, the petitioner filed W.P. No. 894 of 2000, wherein this Court, by orders dated 21.04.2000, directed respondent No.5 to appoint an Enquiry Officer and enquire into the charges leveled against the petitioner and complete the enquiry within three months from the date of receipt of copy of that order. It is stated that even prior to the disposal of above said writ petition, the General Manager of the District

Co-operative Central Bank Limited, Nizamabad, by orders dated 16.10.1999, appointed the Assistant General Manager of the Bank as Enquiry Officer, who conducted a detailed enquiry and submitted a report dated 03.03.2000 holding that the allegations made against the petitioner are baseless. Without reference to the same, once again after disposal of the writ petition, the General Manager appointed respondent No.4-Officer on Special Duty as Enquiry Officer, who in turn issued a memo dated 28.05.2000 calling upon the petitioner to submit his explanation and the petitioner submitted his explanation on 08.06.2000. Respondent No.4, without considering the explanation of the petitioner and the earlier enquiry conducted by the Assistant General Manager, conducted an enquiry, and based on the said enquiry report, respondent No.1-Society, without the approval of the District Level Committee, issued the impugned orders dated 15.09.2000 removing the petitioner from service. Hence, the petitioner filed the present writ petition.

Learned counsel for the petitioner submits that the petitioner was not allowed to participate in the enquiry and no enquiry report was supplied to him by respondent No.1-Society. He submits that respondent No.1-Society, without obtaining the approval of the District Level Committee as contemplated under Bye-law No.12 of the Special Bye-laws relating to Service Conditions of Employees of Primary Agricultural Credit Societies, passed the impugned order. He further submits that while the matters are pending, the Joint Registrar/District Co-operative Officer, Nizamabad, vide proceedings Rc.No.4330/99-C, dated 28.11.2002, passed orders setting aside the removal order passed by respondent No.1-Society and reinstating the petitioner into service with effect from the date of that order, and in that view of the matter, the petitioner has to be reinstated into service.

The Chairman/Person-in-charge of Respondent No.1-Society filed counter affidavit denying the allegations of the petitioner. Reiterating the counter averments, learned counsel for respondent No.1-Society submitted that as per the Bye-law No.12 (1) of the Special Bye-laws relating to Service Conditions of Employees of Primary Agricultural Credit Societies, the Managing Committee in consultation with the District Level Committee is competent for ordering dismissal or removal of the Secretary of the Society. He submits that as per the directions of this Court in W.P. No. 894 of 2000, dated 21.04.2000, respondent No.5 appointed respondent No.4 as Enquiry Officer to conduct a regular enquiry into the charges leveled against the petitioner, and accordingly, a regular enquiry was conducted by respondent No.4, by

affording an opportunity of hearing to the petitioner, and after completion of said enquiry he submitted his report on 23.06.2000 to respondent No.5 holding that all the charges leveled against the petitioner were proved. After receipt of the said enquiry report, the matter was placed before the Managing Committee of the Society on 18.07.2000 and after obtaining necessary permission of the Managing Committee for termination of the services of the petitioner from the Society, respondent No.1-Society, as per the guidelines dated 24.11.19099 issued by the District Co-operative Central Bank Limited, Nizamabad, addressed a letter to the Chairman, District Level Committee for approval of the resolution of the Managing Committee dated 18.07.2000. He further submits that since no communication was received from the District Level Committee within the stipulated period of 30 days from the date of receipt of proposal from the Society in respect of removal of the petitioner, respondent No.1-Society passed the impugned order dated 15.09.2000 and no interference is called for therewith. He further submits that as against the impugned orders there is an efficacious alternative remedy by way of appeal to the Appellate Authority-District Collector is available to the petitioner under Bye-law No. 12(3) of the Special Bye-laws relating to Service Conditions of Employees of Primary Agricultural Credit Societies, and without exhausting the said remedy the petitioner approached this Court.

At this juncture, learned counsel for the petitioner submits that as against the impugned orders, he wants to file an appeal before the Appellate Authority-District Collector. The writ petition was filed in the year 2001. Normally, this Court cannot accept such a contention at this belated stage, i.e., after lapse of five years. But, the particular facts and circumstances of this case is that the Joint Registrar/District Co-operative Officer, Nizamabad, vide proceedings Rc. No. 4330/99-C, dated 28.11.2002, passed an order reinstating the petitioner into service with effect from the date of issue of that order. In the said proceedings, the Joint Registrar/District Co-operative Officer, Nizamabad, stated that on his own enquiry into the matter it was revealed that no documentary or circumstantial evidences are available proving the *prima facie* of the allegations and the enquiry seems to be biased one. It is surprising to note why the Joint Registrar/District Co-operative Officer, Nizamabad, made his own enquiry into the matter and passed such an order. Having regard to the said particular facts and circumstances of this case and in view of the request made by the learned counsel for the petitioner, I deem it appropriate to dispose of the writ petition with the following directions.

As against the impugned order dated 15.09.2000, the petitioner is at liberty to file an appeal before the Appellate Authority/District Collector, and on such appeal being filed by the petitioner, the Appellate Authority-District Collector shall consider the same and pass appropriate orders in accordance with law.

With the above directions, the writ petition is disposed of. No costs.

N.V. RAMANA, J.

Date: 27.02.2006

Nsr/Ksr